

CERTIFICATE OF EFS FILING UNDER 37 CFR §1.8

I hereby certify that this correspondence is being electronically transmitted to the United States Patent and Trademark Office, Commissioner for Patents, via the EFS pursuant to 37 CFR §1.8 on the below date:

Date: October 20, 2009

Name: John C. Freeman, Esq.

Signature: 

PATENT
CASE NO. 12212/39

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application:)
)
Raymond I. Myers)
) Group Art Unit: 3769
U.S. Patent Application)
Serial No.: 10/750,789)
)
Filed: January 2, 2004)
) Examiner: David M. Shay
)
For: LENTICULAR REFRACTIVE) Confirmation No. 1486
SURGERY OF PRESBYOPIA,)
OTHER REFRACTIVE ERRORS,)
AND CATARACT RETARDATION)

REQUEST FOR TERMINATION OF SUSPENSION OF ACTION

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:


On May 4, 2009, a Notice of Allowance was mailed regarding the above mentioned patent application. On August 4, 2009, a Request for Continued Examination (RCE) was filed. The RCE included a request by Applicant for a suspension of action for three months for the above mentioned patent application under 37 C.F.R. § 1.103(c). The request for suspension of action was made because as of the August 4, 2009 deadline Applicant's petition for correcting the priority claim of earlier filed U.S. Application Serial No. 09/897,585 had not been granted and so the chain of priority of the present

application had not been perfected so the application could gain the benefit of the earlier March 21, 1996 filing date.

On September 4, 2009, the petition regarding U.S. Application Serial No. 09/897,585 was mailed, a copy of which is attached as Exhibit A. In view of two previously granted petitions regarding U.S. Application Serial No. 08/821,903 (Exhibit B) and U.S. Application Serial No. 09/312,518 (Exhibit C), the above identified application can claim priority to the earlier filing date of March 21, 1996. Since the chain of priority for the above mentioned patent application has been perfected, there is no longer a need to suspend prosecution for the application. Accordingly, Applicant requests that his request for suspension of action filed on August 4, 2009 be terminated in accordance with MPEP § 709 I.D. Assuming the request for termination is granted, Applicant further requests that prosecution be resumed in an expedited manner.

Respectfully submitted,

Date: October 20, 2009



John C. Freeman
Registration No. 34,483
Attorney for Applicant

BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO, ILLINOIS 60610
(312) 321-4200

EXHIBIT A



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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OFFICE OF PETITIONS

Paper No. 17

BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO IL 60610

In re Application of :
Raymond L. Myers :
Application No. 09/897,585 : **DECISION ON PETITION**
Filed: June 29, 2001 :
Attorney Docket No. 32/1198US(2) :

This is a decision on the petition under 37 CFR 1.182, filed, August 18, 2009, to enter an amendment to the specification to perfect benefit claims.

The petition is **GRANTED**.

A review of the record reveals that a claim to the non-provisional and provisional applications was timely made on filing of the above-identified application. Therefore, the amendment to the specification filed with instant petition has been entered. A corrected filing receipt, which included the desired priority claim to the prior-filed applications, was attached to the previous petition decision mailed June 12, 2009.

This application is being returned to the Examiner or Technology Center Art Unit 3739.

Any questions concerning this matter may be directed to David Bucci at (571) 272-7099. Any questions concerning the examination procedures or status of the application should be directed to the Technology Center.


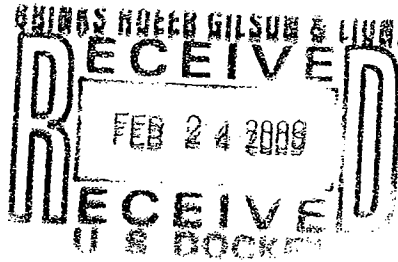

David Bucci
Petitions Examiner
Office of Petitions

EXHIBIT B



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BRINKS HOFER GILSON & LIONE
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CHICAGO, IL 60610

MAILED

FEB 18 2009

In re Application of
Raymond I. Myers
Application No. 08/821,903
Filed: March 21, 1997
Attorney Docket No. 32/1198US

OFFICE OF PETITIONS

DECISION ON PETITION

This is a decision on the renewed petition under 37 CFR §§ 1.182 and 1.183, filed November 6, 2008, requesting entry of an amendment to the specification to insert a reference to an earlier-filed application pursuant to the provisions of 35 U.S.C. § 120 for the benefit of priority to the prior-filed provisional applications set forth in the amendment filed on May 14, 1999.

The petitions are **GRANTED**.

The above-noted abandoned application failed to make a specific reference to the prior-filed applications; namely, 60/013,791 filed March 21, 1996 and 60/036,904, filed February 5, 1997, prior to abandonment. Petitioner now requests that the abandoned application be amended by inserting a reference to the earlier-filed applications.

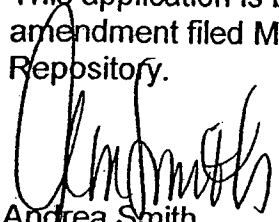
35 U.S.C. § 120 permits entry of a subsequent amendment to an abandoned application in applications filed prior to November 29, 2000 to include the benefit of an earlier filing date for purposes other than prosecution. See Sampson v. Commissioner of Patents and Trademarks, 195 USPQ 136 (DC 1976).

In view thereof, the request for entry of an amendment to insert a reference to the above-noted, earlier-filed applications is granted.

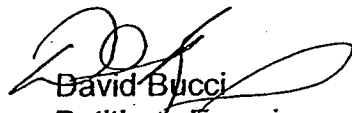
The amendment has been entered. A corrected Filing Receipt, which includes the priority claim to the prior-filed provisional applications, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Andrea Smith at (571) 272-3226.

This application is being forwarded to Technology Center Art Unit 3739 for entry of the amendment filed May 14, 1999. Thereafter, the application will be returned to the Files Repository.



Andrea Smith
Petitions Examiner
Office of Petitions



David Bucci
Petitions Examiner

ATTACHMENT: Corrected Filing Receipt

EXHIBIT C

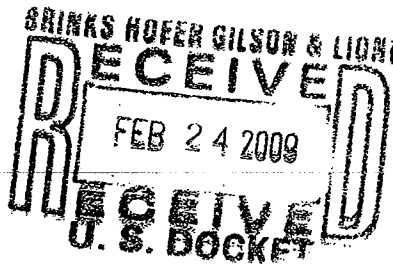


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12212/37

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CHICAGO, IL 60610



MAILED

FEB 18 2009

In re Application of
Raymond I. Myers
Application No. 09/312,518
Filed: May 14, 1999
Attorney Docket No. 32/1198US(1)

OFFICE OF PETITIONS

DECISION ON PETITION
UNDER 37 CFR 1.182

This is a decision on the petition under 37 CFR 1.182, filed April 4, 2005, requesting entry of an amendment to the specification to insert a reference to an earlier-filed application pursuant to the provisions of 35 U.S.C. § 120 for the benefit of priority to the prior-filed provisional application set forth in the amendment filed on August 20, 1999. The delay in responding is regretted.

The present petition is not signed by an attorney of record. However, in accordance with 37 CFR 1.34(a), the signature of Kirk Damman appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts. If Mr. Damman desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. A courtesy copy of this decision is being mailed to petitioner. Nevertheless, all future correspondence regarding this application file will be directed solely to the address of record until otherwise instructed.

The petition is GRANTED.

The above-noted abandoned application failed to make a specific reference to the prior-filed application; namely, 60/036,904, filed February 5, 1997, prior to abandonment. Petitioner now requests that the abandoned application be amended by inserting a reference to the earlier-filed application.

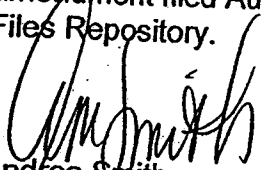
35 U.S.C. § 120 permits entry of a subsequent amendment to an abandoned application in applications filed prior to November 29, 2000 to include the benefit of an earlier filing date for purposes other than prosecution. See Sampson v. Commissioner of Patents and Trademarks, 195 USPQ 136 (DC DC 1976).

In view thereof, the request for entry of an amendment to insert a reference to the above-noted, earlier-filed application is granted.

The amendment has been entered. A corrected Filing Receipt, which includes the priority claim to the prior-filed provisional application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Andrea Smith at (571) 272-3226.

This application is being forwarded to Technology Center Art Unit 3739 for entry of the amendment filed August 20, 1999. Thereafter, the application will be returned to the Files Repository.



Andrea Smith
Petitions Examiner
Office of Petitions



David Bucci
Petitions Examiner

ATTACHMENT: Corrected Filing Receipt

cc: LEWIS, RICE & FINGERSH, LC
ATTN: BOX IP DEPT.
500 NORTH BROADWAY
SUITE 2000
ST LOUIS, MO 63102